

***United States Court of Appeals
for the Second Circuit***



**BRIEF FOR
APPELLANT**

74-1550

ORIGINAL

To be argued by
ROBERT LEIGHTON

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P/S

United States Court of Appeals
For the Second Circuit

UNITED STATES OF AMERICA,

Appellee,

against

CARMINE TRAUMENTI *et al.*

Appellants.

**BRIEF IN BEHALF OF APPELLANT
WARREN ROBINSON**

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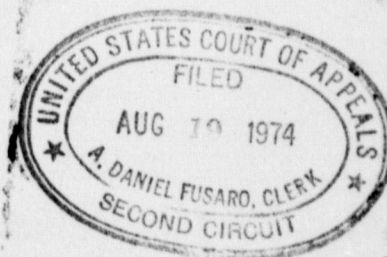


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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
UNITED STATES OF AMERICA, :
Appellee, :
-against- :
CARMINE TRAUMENTI, ET AL. :
Appellants :
-----X

STATEMENT PURSUANT TO RULE 28 (3)

PRELIMINARY STATEMENT

This is an appeal from a judgment of conviction rendered April 22, 1974 in the United States District Court for the Southern District of New York (Duffy, J.) convicting appellant Robinson after trial of conspiring to distribute and to possess with intent to distribute quantities of heroin in violation of 21 U.S.C. Section 841 (a) (1). Appellant was sentenced to six years imprisonment and three years on special parole.

STATEMENT OF FACTS

Appellant, Warren Robinson, proceeded to trial before the Hon. Kevin T. Duffy on an indictment charging him and 30 named defendants with conspiring to distribute quantities of narcotics in violation of Sections 173, 174, 812, 841 (a) (1) and 841 (b) (1) (a) of Title 21, U.S.C. According to the Government, the alleged conspiracy encompassed the period between January 1, 1969 through December of 1973.

Pursuant to this Court's instructions to avoid unnecessary repetition of both the facts and argument in the briefs of the multiple defendants in this case, appellant Robinson is setting forth only those facts pertaining to him and will adopt all relevant arguments raised in the briefs of the co-defendants.

THE GOVERNMENT'S CASE

The Government's case was predicated primarily upon the testimony of Frank Stasi, John Barnaba, Harry Panirello, Thomas Dawson, and Pasquale Provitera. It was only after all these men had been arrested for narcotic violations and were confronted with lengthy prison terms that they agreed to cooperate with the Government. (431, 1238-1239, 2217, 2341-2343, 2965-2966.)*

In March of 1970, Harry Panirello met Pugliese and informed him of his need for money and that he didn't care how he earned it. (2118-2119) His need for money thus prompted Harry's entry into the narcotics business.

In the Spring of 1972, Dawson introduced Harry to Allen (Appellent Warren Robinson). (2189) Harry was of the impression that his brother-in-law, Provitera, delivered the goods to appellant for which appellant paid him \$37,000, (2190)

Later, Harry obtained another three kilos from Pugliese. He sold one half of a kilo to appellant in April 1972 at a Carvel Ice Cream stand in New Jersey. Appellant made a down payment and was to pay the balance when he sold

* Numerical references are to the pages of the trial transcript.

the drugs. (2196) Again in April, Harry directed Provitera to make a delivery to appellant at the Howard Johnson's Lodge in New Jersey. (2201) At the end of May, appellant also received another two or three kilos. (2198)

Between May of 1972 and September, Harry went to Florida and told Provitera to keep in touch with appellant since he owed them \$5,000. When he returned in September, he called appellant and told him that he had some goods and appellant replied "why good, I'm happy to hear from you, it's been a long time". (2207)

In November of 1972, at the Howard Johnson's Lodge, Defendant Salley approached him and Provitera and told them that appellant had told him to see them. (2208-2209, 3025-3027) Shortly thereafter, appellant arrived with \$19,000 and arrangements were made for a delivery the next night by Provitera.

PASQUALE PROVITERA, Harry Panirello's brother-in-law, got into the narcotics business when Harry told him that he would pay \$200 per delivery to deliver packages for him. (2969) On one occasion, he gave appellant a package at the Howard Johnson's Lodge. Additionally, when Harry was on vacation in Florida, he made another delivery to appel-

lant and received some money. (3017-3018)

Finally, THOMAS DAWSON allegedly entered into the conspiracy when on February 20, 1971, he went to appellant's haberdashery store in Washington and overheard an argument between Gregorio and appellant. Dawson had known appellant for about four or five years. (2600-2603) Gregorio needed money to go to New York but appellant said he didn't have the money because he could not make back the front money from the last package he had given him. (2604) Gregorio then asked Dawson to talk to appellant. However, Dawson settled the dispute by giving Gregorio \$2,200. (2606)

The next week at appellant's store, Gregorio told him that Georgie wanted to see the man who was crazy enough to pay the bill for appellant. (2607) Dawson met with Georgie in New York received narcotics from him, and returned to Washington. (2610-2611) The next morning he, appellant, and Gregorio cut the narcotics. (2612) Another trip to New York was made to get narcotics and upon their return to Washington, the narcotics were again cut up in the same manner to get it ready for the dealers. (2616)

Thereafter, appellant accompanied him to New York because he wanted to meet Georgie. They received narcotics from Georgie and returned to Washington. (2626, 2644)

ARGUMENT

PURSUANT TO THE FEDERAL RULES OF APPELLATE PROCEDURE, RULE 28 (i), ALL RELEVANT ARGUMENTS RAISED IN THE BRIEFS FOR THE OTHER APPELLANTS ARE INCORPORATED BY REFERENCE.

CONCLUSION

FOR THE ABOVE STATED REASONS, THE JUDGMENT OF CONVICTION SHOULD BE REVERSED AND A NEW TRIAL ORDERED.

Respectfully Submitted,

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